

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

PEDRO CHAVEZ,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ORDER

Case No. 2:05-CV-390 TC

On April 29, 2005, federal prisoner Pedro Chavez filed a *pro se* Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody, pursuant to 28 U.S.C. § 2255. He seeks a court order vacating or modifying the sentence he received in United States v. Pedro Chavez, Case No. 2:03-CR-519-TC.

For the reasons set forth below, Mr. Chavez's § 2255 Motion is DENIED.

**ANALYSIS**

Mr. Chavez's § 2255 Motion must be denied because he has waived his right to collaterally attack his sentence under § 2255. Specifically, in his Statement in Advance of Plea of Guilty, he agreed to the following:

I also knowingly, voluntarily and expressly waive any right I might have to challenge my sentence or the manner in which it is determined in any collateral attack, including, but not limited to, a motion brought under 28 U.S.C. § 2255.

(Statement of Def. in Advance of Plea of Guilty (Dkt # 37) at ¶ 8(c).) His waiver is valid because the evidence shows that it was entered voluntarily and knowingly. Mr. Chavez is not

attacking the validity of his plea agreement, the proceedings leading up to entry of his guilty plea, or the waiver in his Statement in Advance of Plea of Guilty. He is claiming that his prior conviction was improperly used during the course of his most recent criminal proceedings. (§ 2255 Motion at ¶ 12).

**ORDER**

For the foregoing reasons, Pedro Chavez's § 2255 Motion is DENIED.

DATED this 7 day of May, 2005.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Tena Campbell", is written over the printed name.

TENA CAMPBELL  
United States District Judge